



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-UFO

CERTIFIED MAIL #
RETURN RECEIPT REQUESTED

SEP 16 2005

Bryce P. Boots, Owner
Simplicity Automotive
3140 MT Highway 83
Bigfork, MT 59911

Re: UNDERGROUND INJECTION
CONTROL PROGRAM (UIC)
Proposed Order and Penalty Complaint
with Notice of Opportunity for Hearing

Dear Mr. Boots:

The enclosed document is a Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing ("Complaint") for violations of the Safe Drinking Water Act ("SDWA"). Please carefully read the Complaint soon, since it describes your rights and responsibilities in this matter as well as EPA's authority, the factual basis of the violations, and the background for the proposed penalties. Also enclosed is a copy of the Rules of Practice that govern these proceedings, the required Public Notice associated with this Complaint and, in case your ownership of Simplicity Automotive as a sole proprietor meets the criteria, an information sheet about the Small Business Regulatory Fairness Act.

You are required to take action within 30 calendar days of your receipt of this Complaint to avoid the possibility of having a default judgment entered against you as owner of Simplicity Automotive, that could impose the penalty amount proposed in the Complaint.

Whether or not you request a hearing, we encourage an informal conference with EPA concerning the alleged violations in an effort to negotiate a settlement. You may wish to appear at an informal conference and/or be represented by legal counsel. To arrange for such a conference, you should contact Jim Eppers, Enforcement Attorney, Legal Enforcement Program, at the number provided below. Request for such a conference does not extend the 30 calendar day period during which a request for hearing must be submitted.

Public Notice of EPA's Complaint and the opportunity to provide written comments on the Complaint is being provided pursuant to section 1423 (c)(3)(B) of the SDWA, 42 U.S.C. § 300h-2(c)(3)(B). Should a hearing be held, any person who comments on the Complaint has a right to participate in the hearing.



Printed on Recycled Paper

If you have technical questions relating to this matter, the person most knowledgeable on my staff is Carol L. Hutchings, UIC Enforcement Team, Technical Enforcement Program, at 1-800-227-8917 ext. 6485 or (303) 312-6485. For all legal questions, the person most knowledgeable on my staff is Jim Eppers at 1-800-227-8917 ext. 6893 or (303) 312-6893. Mrs. Hutchings and Mr. Eppers can also be reached at the following addresses:

Carol L. Hutchings (Mail Code 8ENF-UFO)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466, or

Jim Eppers (Mail Code 8ENF-L)
Enforcement Attorney
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466

We urge you prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Rushin", with a stylized flourish at the end.

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Proposed Administrative Order
and Opportunity to Request Hearing
40 C.F.R. Part 22
Public Notice
U.S. EPA Small Business Resources Fact Sheet

1 UNITED STATES
2 ENVIRONMENTAL PROTECTION AGENCY
3 REGION 8
4 Docket No. SDWA-08-2005-0061
5
6

2005 SEP 20 PM 12:59

FILED
EPA REGION VIII
HEARING CLERK

7 In the Matter of:)
8)

9 Bryce P. Boots, Owner of)
10 Simplicity Automotive,)
11 a Montana Sole Proprietorship)

12)
13 Respondent.)

**PROPOSED ORDER AND PENALTY
COMPLAINT WITH NOTICE OF
OPPORTUNITY FOR HEARING**

14
15 **INTRODUCTION**
16

17 1. This civil administrative enforcement action is authorized by Congress in section
18 1423(c) of the Public Health Service Act, also known as the Safe Drinking Water Act (SDWA or
19 the Act). 42 U.S.C. 300h-2(c). The Environmental Protection Agency (EPA) regulations
20 authorized by the statute are set out in part 144 of title 40 of the Code of Federal Regulations
21 (40 C.F.R.), and violations of the statute, permits, or EPA regulations constitute violations of the
22 Act. The rules for this proceeding are the "Consolidated Rules of Practice Governing the
23 Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action
24 Orders and the Revocation, Termination or Suspension of Permits ("Rules of Practice"),"
25 40 C.F.R. part 22, a copy of which is enclosed.
26

27 2. The undersigned EPA official has been properly delegated the authority to issue this
28 Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (complaint).
29

30 3. EPA alleges that Bryce P. Boots (Respondent), as owner of Simplicity Automotive,
31 which is a sole proprietorship, has violated the Act and proposes the assessment of a civil penalty
32 and compliance measures, as more fully explained below.
33

34 **NOTICE OF OPPORTUNITY FOR A HEARING**
35

36 4. Respondent has the right to a public hearing before an administrative law judge to
37 disagree with any factual allegation made by EPA in the complaint, the appropriateness of the
38 proposed penalty, or to present the grounds for any legal defense he may have.
39
40
41
42

1 5. To disagree with the complaint and assert its right to a hearing, Respondent must file a
2 written answer (and one copy) with the Region 8 Hearing Clerk at the following address:

3
4 Region 8 Hearing Clerk
5 999 18th Street; Suite 300 (8RC)
6 Denver, Colorado 80202

7
8 within 30 calendar days of receiving this complaint. The answer must clearly admit, deny or
9 explain the factual allegations of the complaint, the grounds for any defense, the facts you may
10 dispute, and your specific request for a public hearing. Please see section 22.15 of the Rules of
11 Practice for a complete description of what must be in the answer. **FAILURE TO FILE AN**
12 **ANSWER AND REQUEST FOR HEARING WITHIN 30 CALENDAR DAYS MAY**
13 **WAIVE RESPONDENT'S RIGHT TO DISAGREE WITH THE ALLEGATIONS OR**
14 **PROPOSED PENALTY, AND RESULT IN A DEFAULT JUDGMENT AND**
15 **ASSESSMENT OF THE PENALTY PROPOSED IN THE COMPLAINT, OR UP TO**
16 **THE MAXIMUM AUTHORIZED BY THE ACT.**

17 18 **QUICK RESOLUTION**

19
20 6. Respondent may resolve this proceeding at any time by permanently closing the motor
21 vehicle waste portion of its Class V disposal system (well) and paying the penalty amount
22 proposed in the complaint. Such action to close the well and make payment need not contain
23 any response to, or admission of, the allegations in the complaint. Such action to close the well
24 and make payment shall constitute a waiver of Respondent's right to contest the allegations and
25 to appeal the final order. See section 22.18 of the Consolidated Rules of Practice for a full
26 explanation of the quick resolution process.

27 28 **SETTLEMENT NEGOTIATIONS**

29
30 7. EPA encourages discussing whether cases can be settled through informal settlement
31 conferences. If Respondent wants to pursue the possibility of settling this matter, or have any
32 other questions, contact Jim Eppers, Senior Enforcement Attorney, at [1-800-227-8917;
33 extension 6893 or 303-312-6893] or at the address identified in paragraph 28 herein. **Please note**
34 **that calling Mr. Eppers or requesting a settlement conference does NOT delay the running**
35 **of the 30 day period for filing an answer and requesting a hearing.**

36 37 **GENERAL ALLEGATIONS**

38
39 The following general allegations apply to all times relevant to this action, and to each
40 count of this complaint:

41
42 8. Pursuant to section 1422 of the Act, 42 U.S.C. § 300h-1, and 40 C.F.R. part 147
43 subpart BB, section 147.1351, EPA administers the Underground Injection Control (UIC)

1 program for Class I, III, IV, and V wells in the State of Montana. The effective date of the
2 program is June 25, 1984. The program requirements are located at 40 C.F.R. parts 124, 144,
3 146, 147, and 148.

4
5 9. On September 24, 2004, an EPA representative performed a routine inventory
6 verification inspection of the Simplicity Automotive facility, which is located at 3140 Montana
7 Highway 83, Bigfork, Montana.

8
9 10. The inspection found that there were floor drain(s) located in the shop area that
10 connected to a shallow waste disposal system and that motor vehicle maintenance was performed
11 in the shop area.

12
13 11. Motor vehicle waste disposal wells are defined at 40 C.F.R. §144.8l(16) as follows:
14 "Motor vehicle waste disposal wells that receive or have received fluids from vehicular repair or
15 maintenance activities, such as an auto body repair shop, automotive repair shop, new and used
16 car dealership, specialty repair shop (e.g., transmission and muffler repair shop), or any facility
17 that does any vehicular repair work."

18
19 12. Respondent's disposal system, as identified in the inventory verification inspection in
20 paragraph 9 above, is classified as a "Class V Injection Well" as defined by 40 C.F.R. §144.6 and
21 §146.5 and is a motor vehicle waste disposal well as defined by 40 C.F.R. §144.8l(16).
22 Respondent is currently authorized by rule (40 C.F.R. §144.24) to operate the disposal system
23 described above. Respondent is therefore subject to applicable requirements of
24 40 C.F.R. §§ 124, 144 and 146.

25
26 13. On November 9, 2004, EPA mailed a UIC Shallow Injection Well Program letter to
27 Respondent. The letter was received by Respondent on November 12, 2004. The letter required
28 the Respondent to either:

29
30 a. notify EPA that you plan to apply for a permit by December 11, 2004, or

31
32 b. submit a plan for permanent closure of the motor vehicle waste disposal portion of the
33 system (including a written schedule and plan for alternative disposal of the waste) by
34 December 11, 2004 and permanently close that portion of the system by April 5, 2005.
35 Once the system is closed or retrofitted, documentation needs to be provided to EPA
36 including written description of the changes to the system and photos of where those
37 changes were made.

38
39 14. On December 14, 2004, EPA received a plan from Respondent for closure of the
40 Class V motor vehicle waste disposal system, proposing to cement the two drains closed.

41
42 15. On December 22, 2004, EPA mailed a UIC Shallow Injection Well Program, Class V
43 Injection Well Closure letter approving Respondent's closure plan.

16. On July 22, 2005, an EPA representative performed a routine inspection of the Simplicity Automotive facility

17. The EPA representative found that the floor drain(s) had not been cemented closed.

18. To date, EPA has not been notified by Respondent, verbally or in writing, that the disposal system has been closed.

19. The Respondent, Bryce Boots, owns Simplicity Automotive, which is a sole proprietorship, and which has been doing business in the State of Montana since 1981.

20. Respondent is a "person" within the meaning of Section 1401(12) of the Act, 42 U.S.C. § 300f(12).

21. Respondent, at all times pertinent hereto, owns and operates a general automotive service and repair facility that includes a shop where motor vehicle repair occurs and where the disposal system described in paragraph 12, above is located.

22. Beneath the disposal system are underground sources of drinking water (USDWs), including but not limited to the shallow unconsolidated sand and gravel, Northern Rocky Mountains Intermontane Basin aquifer.

COUNT 1.

23. Respondent is in violation of 40 C.F.R. §144.12(a) and 40 C.F.R. §144.82(a)(1) by owning, operating, and maintaining a Class V disposal facility which, through injection activity, allows the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary drinking water regulation under 40 C.F.R. part 142 or may otherwise adversely affect the health of persons. The Respondent's failure to discontinue the use of its Class V motor vehicle waste disposal system may endanger or otherwise affect the health of persons. The duration of the Respondent's violations is from April 5, 2005 to the present.

COUNT 2

24. Respondent is in violation of 40 C.F.R. §144.12(c)(1) and (2) and 40 C.F.R. §144.88(b) for failure to close or retrofit the Class V disposal system in a manner that would keep contaminants from entering a USDW. The duration of Respondent's violations for failure to close or retrofit the Class V disposal system is from April 5, 2005 to the present.

PROPOSED ORDER WITH ADMINISTRATIVE CIVIL PENALTY

25. The Act authorizes the assessment of a civil penalty of up to \$32,500 per day, for each violation of the Act, 42 U.S.C. § 300h-2. The Act requires EPA to take into account the following factors in assessing a civil penalty: the nature, circumstances, extent and gravity of the violation; any economic benefit or savings gained resulting from the violation; Respondent's history of such violations; Respondent's culpability for the violation; Respondent's good-faith efforts to comply with applicable requirements; the economic impact of the penalty on the Respondent; and other factors that justice may require. 42 U.S.C. § 300h-2(c)(4)(B).

26. In light of the statutory factors and the specific facts of this case, EPA proposes that a penalty of four thousand six hundred dollars (\$4,600.00) be assessed against Respondent for the violations alleged above, as explained below:

Nature, Circumstances, Extent, and Gravity of Violations

Respondent owns the property and had the ability and means to comply by closing or retrofitting the waste disposal system to prevent movement of fluids to a USDW that may endanger the health or persons.

Prior Compliance History

This Order is the first enforcement actions EPA Region 8 has issued to Respondent requiring compliance with the applicable UIC regulations.

Good-Faith Efforts to Comply

Respondent had not made an effort to make changes to the disposal system by the required date and subsequently. Respondent's plan, provided to EPA on December 14, 2004 to close the disposal system by cementing the drains closed, has gone unimplemented.

Degree of Culpability

Respondent should have been aware of all UIC requirements prior to EPA's first contact. On November 12, 2004, when Respondent received EPA's UIC Shallow Injection Well Program letter (see paragraph 13, above), Respondent had actual notice of the requirements.

Economic Benefit

An economic benefit was experienced by Respondent for failure to permit or close its Class V well. The delayed cost of compliance, was, however, minimal.

1 Ability to Pay

2
3 EPA did not reduce the proposed penalty due to this factor, but will consider any new
4 information Respondent may present regarding Respondent's ability to pay the penalty
5 proposed in this complaint.
6

7 Other Matters that Justice may Require

8
9 No adjustments made regarding these factors at this time.
10

11 27. Additionally, Respondent shall comply with the requirements of 40 C.F.R.
12 §144.12(c)(1) and (2) and 40 C.F.R. §144.88(b), by permanently closing the motor vehicle waste
13 portion of the Class V disposal system pursuant to a plan submitted to and approved by EPA.
14 Respondent shall submit the plan to:

15
16 Carol Hutchings (8ENF-UFO)
17 UIC Program
18 USEPA Region 8
19 999 18th Street Suite 300
20 Denver, CO 80202-2466.
21

22 28. Respondent's payment of the penalty shall be made by money order or certified
23 check made payable to "Treasurer, United States of America" and mailed to the following
24 address:

25 EPA - Region 8
26 Regional Hearing Clerk
27 P.O. Box 360859
28 Pittsburgh, Pennsylvania 15251.
29

30 A copy of said check shall be mailed to the following address:

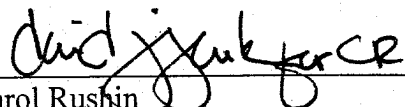
31
32 Jim Eppers (8ENF-L)
33 Enforcement Attorney
34 U.S. EPA - Region 8
35 999 18th Street, Suite 300
36 Denver, Colorado 80202-2466.
37

38 29. As required by the Act, prior to the assessment of a civil penalty , EPA will provide
39 public notice of the proposed penalty, and reasonable opportunity for the people to comment on
40 the matter, and present evidence in the event a hearing is held. 42 U.S.C. § 1423(c)(3)(B).
41
42
43

1 30. The administrative law judge is not bound by EPA's penalty policy or the penalty
2 proposed by EPA, and may assess a penalty above the proposed amount, up to the \$32,500 per
3 day per violation authorized in the statute.
4

5 31. This complaint does not constitute a waiver, suspension, or modification of the
6 requirements of any applicable provision of the Act or the UIC regulations implementing the Act,
7 which remain in full force and effect. Issuance of this complaint is not an election by the EPA to
8 forego any civil or any criminal action otherwise authorized under the Act.
9

10
11 Issued this 16th day of September, 2005.
12

13
14 
15 Carol Rushin
16 Assistant Regional Administrator
17 Office of Enforcement, Compliance,
18 and Environmental Justice
19 U.S. EPA, Region 8
20 999 18th Street, Suite 300
21 Denver, CO 80202-2466

Bryce P. Boots
Docket No. SDWA-08-2005-0061

CERTIFICATE OF SERVICE

I hereby certify that the original and one true copy of this Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing were hand carried to the Regional Hearing Clerk, EPA Region 8, 999 18th Street, Denver, Colorado, and that a true copy was sent Certified Mail; Return Receipt Requested to:

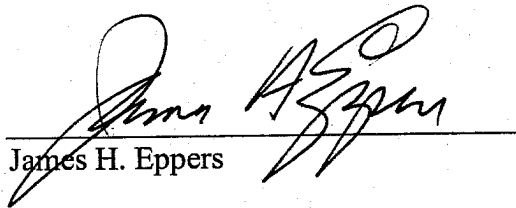
Bryce P. Boots, Owner
Simplicity Automotive
3140 MT Highway 83
Bigfork, MT 59911.

SEP 21 2005

Dated: _____

By: _____

James H. Eppers

A handwritten signature in black ink, appearing to read 'James H. Eppers', is written over a horizontal line. The signature is stylized with a large initial 'J' and 'H'.

**U.S. ENVIRONMENTAL PROTECTION AGENCY
PUBLIC NOTICE
OPPORTUNITY FOR PUBLIC COMMENT ON
PROPOSED ORDER AND PENALTY COMPLAINT
WITH NOTICE OF OPPORTUNITY FOR HEARING
AGAINST
BYRCE P. BOOTS
FOR FAILURE TO COMPLY WITH
UNDERGROUND INJECTION CONTROL REGULATIONS**

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to solicit written comments on an Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (Complaint) [Docket No. SDWA-08-2005-0061] that Region 8 of the United States Environmental Protection Agency (EPA) proposes to issue to Bryce P. Boots, owner of Simplicity Automotive, a Montana sole Proprietorship, located at 3140 Montana Highway 83, Bigfork, Montana. The Complaint alleges violations of the Underground Injection Control (UIC) regulations and proposes remedies and monetary penalties for the alleged violations. The Complaint is issued under the UIC provisions of the Safe Drinking Water Act (SDWA) and the Act's implementing regulations. These regulations govern the injection of fluids that may endanger an underground source of drinking water (USDW).

The EPA desires to receive written comments from any interested party having knowledge of the alleged violations or who can provide any information useful to ensure that the proposed remedies are appropriate. EPA will review any comments received on the Complaint, and will thereafter determine whether to modify or withdraw the Complaint or whether to modify the proposed penalty and/or compliance requirements.

BACKGROUND

Part C of the SDWA requires the EPA to regulate underground injection of fluid through wells to assure that underground sources of drinking water (USDW) are not endangered. Section 1421 of the SDWA requires EPA to administer UIC programs in States that do not have approved State UIC programs. Regulation of the UIC Class V Program has not been delegated to the State of Montana; therefore, EPA administers the program in accordance with title 40 of the Code of Federal regulations (40 C.F.R.), Parts 124, 144, 146, 147, and 148.

The Class V disposal system at the Simplicity Automotive facility which is the subject of this Complaint, is owned and operated by Bryce P. Boots, is located at 3140 Montana Highway 83, Bigfork, Montana. A Class V injection well, pursuant to 40 C.F.R. 144.6 and 146.5, is a shallow injection well that injects fluids into or above a USDW. The well subject to this

Complaint is of the subclass titled "motor vehicle waste disposal well," and is used to dispose of internal combustion engine repair and maintenance facility wastes.

The Complaint alleges that Bryce P. Boots is in violation of UIC regulations and is subject to appropriate penalties and fines for failing to: (a) prevent movement of fluids into a USDW that may cause a violation of a primary drinking water regulation under 40 C.F.R. Part 142 or otherwise adversely affect the health of persons and (b) close or retrofit the Class V disposal system in a manner that would keep contaminants from entering a USDW. The Complaint proposes that EPA assess an administrative civil penalty in the amount four thousand six hundred dollars (\$4,600.00) and orders Bryce P. Boots to cease discharging into the present system immediately and submit to EPA a plan in writing to permanently close the discharge system.

PUBLIC COMMENTS

Written comments on the Complaint are encouraged and will be accepted at the address listed below for a period of thirty (30) days after the publication of this notice. Written comments submitted by the public as well as information submitted by Bryce P. Boots, will be available for public review as part of the Administrative Record, subject to the provisions of law restricting the disclosure of confidential information. Mr. Boots may request a hearing. Any person submitting written comments will be notified of and has a right to participate in such a hearing. The Complaint and the Administrative Record are available for review between 9:00 a.m. and 4:00 p.m. at the address listed below. It is recommended that those wishing to view the Administrative Record call James H. Eppers, Enforcement Attorney, Legal Enforcement Program, EPA Region 8, at (303) 312-6893 before visiting the EPA Region 8 offices.

Please submit written comments to:

Tina Artemis (8RC)
Regional Hearing Clerk
U.S. EPA, Region 8
999 18th Street, Suite 500
Denver, Colorado 80202-2466

A copy of the Complaint will also be available for public review Monday-Friday between 8:00 a.m. and 5:00 p.m. at the Flathead County Clerk and Records Office, 800 South Main Street, Kalispell, Montana.

Any person interested in receiving their own copy of this or any future public notice of a UIC administrative action can call Carol Lee Hutchings in the UIC program, EPA Region 8, at (303) 312-6485.

THE DECISION

EPA will review and consider all public comments received on the Complaint and will thereafter determine whether to modify or withdraw the Complaint or whether to modify the proposed penalty and/or compliance requirements. If the Complaint is revised, copies shall be provided to all parties and to all members of the public who have commented.

Elisabeth Evans

Date of Publication

Elisabeth Evans, Director
Technical Enforcement Program
Office of Enforcement, Compliance, and
Environmental Justice
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-3466



U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance and tools to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Hotlines, Helplines and Clearinghouses

EPA sponsors approximately 89 free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements.

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers: <http://www.epa.gov/clearinghouse>

Pollution Prevention Clearinghouse
<http://www.epa.gov/opptintr/library/ppicindex.htm>

EPA's Small Business Ombudsman Hotline can provide a list of all the hot lines and assist in determining the hotline best meeting your needs:
(800) 368-5888

Emergency Planning and Community Right-To-Know Act
(800) 424-9346

National Response Center (to report oil and hazardous substance spills)
(800) 424-8802

Toxics Substances and Asbestos Information
(202) 554-1404

Safe Drinking Water
(800) 426-4791

Stratospheric Ozone and Refrigerants Information
(800) 296-1996

Clean Air Technology Center
(919) 541-0800

Wetlands Helpline
(800) 832-7828

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page
<http://www.epa.gov>

Small Business Assistance Program
<http://www.epa.gov/ttn/sbap>

Office of Enforcement and Compliance Assurance
<http://www.epa.gov/compliance>

Compliance Assistance Home Page
<http://www.epa.gov/compliance/assistance>

Office of Regulatory Enforcement
<http://www.epa.gov/compliance/civil/index.html>

Office of Site Remediation Enforcement
<http://www.epa.gov/compliance/cleanup>

Innovative Programs for Environmental Performance
<http://www.epa.gov/partners>

Small Business Ombudsman
www.sba.gov/ombudsman



§21.13

approve or disapprove the State issued statement, in accordance with the requirements of §21.5.

(2) The Regional Administrator will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with §21.5, on any such statement.

(i) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in §21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

40 CFR Ch. I (7-1-01 Edition)

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

Sec.

- 22.1 Scope of this part.
- 22.2 Use of number and gender.
- 22.3 Definitions.
- 22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.
- 22.5 Filing, service, and form of all filed documents; business confidentiality claims.
- 22.6 Filing and service of rulings, orders and decisions.
- 22.7 Computation and extension of time.
- 22.8 Ex parte discussion of proceeding.
- 22.9 Examination of documents filed.

Subpart B—Parties and Appearances

- 22.10 Appearances.
- 22.11 Intervention and non-party briefs.
- 22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

- 22.13 Commencement of a proceeding.
- 22.14 Complaint.
- 22.15 Answer to the complaint.
- 22.16 Motions.
- 22.17 Default.
- 22.18 Quick resolution; settlement; alternative dispute resolution.
- 22.19 Prehearing information exchange; prehearing conference; other discovery.
- 22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

- 22.21 Assignment of Presiding Officer; scheduling the hearing.
- 22.22 Evidence.
- 22.23 Objections and offers of proof.
- 22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.
- 22.25 Filing the transcript.
- 22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

- 22.27 Initial decision.
- 22.28 Motion to reopen a hearing.